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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Dwight Marcus

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EXAMINER

ALAM, SHAHID AL

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/087,003	Applicant(s) MARCUS, DWIGHT	
	Examiner Shahid Al Alam	Art Unit 2162	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-83 is/are pending in the application.
- 4a) Of the above claim(s) 23-29, 57-59 and 72-78 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22, 30-56, 60-71 and 79-83 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09022004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, filed October 27, 2008, with respect to the rejection(s) of claim(s) 1 – 22, 30 – 35, 36 – 41, 47, 50 – 51, 66, 67, 79 and 80 – 83 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,864,868 issued to David Contois (hereinafter "Contois") and in view of Chung-Sheng Li et al. have been considered and are persuasive. Therefore, the rejection under Contois in view of Li has been withdrawn. However, upon further examination, these claims remains rejected in view of EP 0564247 A1 issued to Randy Ubillos ("Ubillos").

In view of the above, claim rejections for claims 42 – 46, 48, 49, 52 – 56, 60 – 65 and 68 – 71 has been re-written as being unpatentable over Contois in view of Ubillos and further in view of U.S. Patent Number 5,966,121 issued to John Hubbell et al. ("Hubbell").

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 22, 30 – 35, 36 – 41, 47, 50 – 51, 66, 67, 79 and 80 – 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,864,868 issued to David Contois (hereinafter "Contois") and in view of EP 0564247 A1 issued to Randy Ubillos ("Ubillos").

With respect to claim 1, Contois teaches a method of creating media programming (abstract, column 11, lines 32 – 33 and column 12, lines 1 – 12), comprising:

maintaining a database containing selected information about each of a plurality of media elements (column 4, lines 39 – 49);

selecting a plurality of said media elements in response to a request for media programming (column 4, lines 46 – 49), and

selecting a temporal organization for said selected media elements (column 13, lines 61 – 63), said temporal organization not being dictated by said selected information (column 4, lines 53 – 55 and 59 – 67).

Contois teaches listings of media elements into media programming (column 11, lines 45 – 56). Contois does not explicitly teach **assembling** said media elements into media programming as claimed.

Ubillos teaches claimed **assembling** said media elements into media programming (see first page, abstract).

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to modify the teachings of Contois with the teachings of Ubillos to provide a convenient and intuitive way for a user to select “in” and “out” points for each clip to be included in an edited video program. It would have been obvious to modify because Ubillos system dynamically generates each video clip to be displayed by retrieving from storage all frames of the video clip and displaying the retrieved frames (column 3, lines 18 – 24 and column 13, lines 44 – 47).

As to claim 2, said media elements are audiovisual clips, and said media programming is an audiovisual program (Ubillos: abstract).

As to claim 3, said media elements are still photographs, and said media programming comprises a series of said still photographs (Contois: column 12, lines 15 – 21).

As to claim 4, said selected information comprises content information relating to said media assets (Ubillos: column 8, lines 41 – 56).

As to claim 5, said selected information comprises a plurality of tags associated with each of said media elements, at least one of said tags being a content tag containing information relating to content of said media element, and at least one of said tags being a control tag containing information other than content information (Ubillos: column 8, line 57 – column 9, line 9).

As to claim 6, media element is a media clip, and at least one of said control tags contains transition information (Ubillos: column 7, lines 5 – 12).

As to claim 7, at least one of said control tags contain a luminance range for a portion of said media clip (Ubillos: column 7, lines 19 – 31).

As to claim 8, said step of selecting further comprises selecting two elements based on said request, selecting a temporal order for said two elements, and determining based on information in said control tags whether said two elements may be assembled in the selected temporal order, and, if not, deselecting at least one of said two elements (Contois: column 11, lines 54 – 67 and column 12, lines 1 – 36).

As to claim 9, said step of selecting further comprises selecting two elements based on said request, selecting a temporal order for said two elements, and selecting transitions for said two elements based on transition information associated with each of said elements and transition rules (Contois: column 11, lines 54 – 67 and column 12, lines 1 – 36).

As to claim 10, the step of obtaining demographic information concerning an intended view of a programming prior to said step of selecting, and employing said demographic information in said step of selecting (Ubillos: abstract).

As to claim 47, the step of obtaining desired content information concerning an intended view of a the programming prior to said step of selecting, and employing said desired content information in said step of selecting (Contois: column 4, lines 39 – 67).

As to claim 66, assembling an automatically assembled media clip into said media programming (Ubillos: abstract).

As to claim 67, obtaining psychographics information concerning an intended view of the programming prior to said step of selecting, and employing said psychographics information in said step of selecting (Contois: column 4, lines 39 – 67).

Art Unit: 2162

3. Claims 42 – 46, 48, 49, 52 – 56, 60 – 65 and 68 – 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Contois in view of Ubillos and further in view of U.S. Patent Number 5,966,121 issued to John Hubbell et al. (“Hubbell”).

With respect to claims 42 – 46, 48, 49 and 68 – 71, Contois in view of Ubillos disclosed all the limitations except that they do not explicitly teach transition information, style information, filtering and tagging as taxonomic, attribute and reusability as claimed.

With respect to claims 42 – 46, 48, 49 and 68 – 71, Hubbell discloses claimed transition information transition information, style information, filtering and tagging as taxonomic, attribute and reusability.

As to claims 42 and 43, said transition information comprises: a transition point and a transition type (Hubbell: column 9, lines 53 – 56).

As to claims 44 – 46, said transition type is a dissolve, a cut and a fade (Hubbell: column 7, lines 26 – 30 and column 14, line 65 – column 15, line 6).

As to claim 48, a modification parameter wherein said modification parameter is used to modify a transition (Hubbell: column 5, lines 17 – 25).

As to claim 49, the step of obtaining desired style information concerning an intended view of a the programming prior to said step of selecting, and employing said desired style information in said step of selecting (Hubbell: column 4, line 66 – column 5, line 8).

As to claim 68, filtering a first media element out of consideration for inclusion in said media programming wherein said filtering is performed by a moderation layer (Hubbell: column 5, lines 17 – 25).

Art Unit: 2162

As to claim 69 – 71, at least one of said tags is a taxonomic tag, an attribute tag and a reusability tag (Hubbell: column 10, lines 20 – 28 and column 14, lines 10 – 16).

Hubbell, further teaches, media element is a media clip, and at least one of said control tags contains transition information (Hubbell: column 10, lines 20 – 28) and at least one of said control tags contain a luminance range for a portion of said media clip (Hubbell: column 5, lines 9 – 25 and column 10, lines 20 – 28).

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to combine Hubbell with Contois and Ubillos because combination would permit access to video editing format and to efficient modification of the data signal portion of a multimedia bit-stream (Hubbell: column 2, lines 54 – 61).

The subject matter of claims 11 – 22 and 50 – 56 are rejected in the analysis above in claims 1 – 10, 42 – 49 and 66 – 71 and these claim are rejected on that basis.

The subject matter of claims 30 – 35 and 60 – 62 are rejected in the analysis above in claims 1 – 10, 42 – 49 and 66 – 71 and these claim are rejected on that basis.

The subject matter of claims 36 – 41 and 63 – 65 are rejected in the analysis above in claims 1 – 10, 42 – 49 and 66 – 71 and these claim are rejected on that basis.

The subject matter of claims 79 and 80 – 83 are rejected in the analysis above in claims 1 – 10, 42 – 49 and 66 – 71 and these claim are rejected on that basis.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shahid Al Alam whose telephone number is (571) 272-4030. The examiner can normally be reached on Monday-Thursday 8:00 A.M.- 4:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Shahid Al Alam/
Primary Examiner, Art Unit 2162

February 15, 2009